

COVINGTON & BURLIN

1201 PENNSYLVANIA AVENUE, N. W.

P.O. BOX 7566

WASHINGTON, D.C. 20044-7566

(202) 662-6000

FACSIMILE (202) 662-6291

RECEIVED
FEDERAL ELECTION
COMMISSION MAIL ROOM

SEP 29 5 03 PM '97

LECONFIELD HOUSE

CURZON STREET

ANDOVER, ENGLAND

ENGLAND

TELEPHONE 44-171-495-5656

FACSIMILE 44-171-495-3101

KUNSTLAAN 44 AVENUE DES ARTS

BRUSSELS 1040 BELGIUM

TELEPHONE 32-2-549-5230

FACSIMILE 32-2-502-1598

MICHAEL A. DAWSON

DIRECT DIAL NUMBER

(202) 662-5465

mdawson@cov.com

September 29, 1997

BY MESSENGER

Anne A. Weissenborn, Esq.
Senior Attorney
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 4378

Dear Ms. Weissenborn:

Enclosed are the National Republican Senatorial Committee's response to the Commission's order to submit written answers and the Commission's subpoena to produce documents, together with copies of responsive documents.

Sincerely,


Michael A. Dawson

SEP 30 10 04 AM '97

BEFORE THE FEDERAL ELECTION COMMISSION

SEP 29 5 03 PM '97

In the Matter of)

)
)
)

In re: MUR 4378

**NATIONAL REPUBLICAN SENATORIAL COMMITTEE'S
RESPONSE TO ORDER TO SUBMIT WRITTEN ANSWERS AND
SUBPOENA TO PRODUCE DOCUMENTS**

The National Republican Senatorial Committee ("the NRSC") hereby responds to the order and subpoena of the Federal Election Commission ("the Commission") dated June 27, 1997, as follows:

SEP 29 1997
16:17:11

I. GENERAL OBJECTIONS

1. The NRSC objects to the Commission's order and subpoena as moot and without any factual basis. The factual bases for the Commission's order and subpoena were certain allegedly "unanswered" questions identified in the Commission's "Factual and Legal Analysis." The NRSC, however, submitted a detailed response to these allegedly unanswered questions on August 26, 1997.

2. The NRSC objects to the order and subpoena as wholly without legal justification. The legislative advertisements at issue contained neither express advocacy nor an "electioneering message." Even if the advertisements contained an "electioneering message," such messages cannot be limited by the Federal Election Campaign Act of 1971 (as amended).

3. The NRSC objects to the order and subpoena insofar as they call for the production of documents and information from before June 1995, when Dennis R. Rehberg became a candidate for the Republican Party nomination for U.S. Senate, as not reasonably likely to lead to the discovery of admissible evidence. In addition, the search for documents and information from this time period would be unduly burdensome.

4. The NRSC objects to the order and subpoena to the extent they call for the production of documents or information protected by the attorney-client privilege.

5. The NRSC objects to the order and subpoena to the extent they call for the production of documents or information protected by the work product doctrine.

6. The NRSC objects to the order and subpoena to the extent they call for the production of confidential political information in violation of the First Amendment.

7. The NRSC objects to the instruction, "[s]hould you claim a privilege or other objection with respect to any documents, identify each such document in sufficient detail to provide justification for the privilege claim or other objection. Each claim of privilege must specify in detail all grounds on which it rests," as exceeding the NRSC's obligations. Cf. Fed. R. Civ. P. 45(d)(2).

8. The NRSC objects to the order and subpoena to the extent they call for the production of documents or

information not in the possession, custody, or control of the NRSC.

9. The NRSC objects to the definition of "identify" contained in the order and subpoena as overbroad and unduly burdensome.

II. RESPONSES AND OBJECTIONS TO SPECIFIC INTERROGATORIES

INTERROGATORY NO. 1:

Identify by meeting all persons employed by, or serving as officers and/or volunteers with, the NRSC who attended meetings with Dennis R. Rehberg and/or representatives of Montanans for Rehberg in Washington, DC or elsewhere in 1995 and 1996, prior to Mr. Rehberg's nomination to the office of U.S. Senator from the State of Montana in June, 1996, including, but not limited to, meetings in July, 1995 and on May 1, 1996.

RESPONSE:

The NRSC objects to this interrogatory and incorporates General Objections Nos. 1-3, 8, and 9 by reference. Subject to and without waiving those objections, the NRSC responds as follows:

Wes Anderson, Field Staff,
Jo Ann Barnhart, Political Director,
Craig Engle, General Counsel,
Phillip Griffin, Field Staff,
Gordon Hensley, Communications,
John Heubusch, Executive Director,
Priscilla Ruzzo, Finance,
Sonny Scott, Research, and
Greg Strimple, Polling.

INTERROGATORY NO. 2:

Identify by meeting all persons employed by, or serving as officers and/or volunteers with, Montanans for Rehberg who took part in

meetings with representatives of the NRSC in Washington, DC or elsewhere in 1995 and 1996, prior to the nomination of Dennis R. Rehberg to the office of U.S. Senator from the State of Montana in June, 1996.

RESPONSE:

The NRSC objects to this interrogatory and incorporates General Objections Nos. 1-3, 8, and 9 by reference. Subject to and without waiving those objections, the NRSC responds as follows:

Dennis R. Rehberg,
Janice L. Rehberg,
Mike Pieper,
Tony Payton, and
LaDonna Lee.

INTERROGATORY NO. 3:

Identify all persons employed by, or serving as officers and/or volunteers with, the NRSC who engaged in telephone and/or written contacts with Dennis R. Rehberg and/or representatives of Montanans for Rehberg in 1995 and 1996, prior to Mr. Rehberg's nomination to the office of U.S. Senator from the State of Montana in June, 1996.

RESPONSE:

The NRSC objects to this interrogatory and incorporates General Objections Nos. 1-3, 8, and 9 by reference. In addition, the NRSC objects to this interrogatory as overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 4:

Identify the production company which produced, in April and/or May, 1996, a radio advertisement supporting the candidacy of Dennis R. Rehberg, one script for which included a disclaimer stating that the advertisement was being paid for by the NRSC.

RESPONSE:

The NRSC objects to this interrogatory and incorporates General Objection Nos. 1, 8, and 9 by reference. Subject to and without waiving those objections, the NRSC responds, based on information and belief, as follows:

Strategic Perceptions, Inc.
Hollywood, California.

INTERROGATORY NO. 5:

Identify all persons employed by, or serving as officers and/or volunteers with, the NRSC who were involved in arrangements for a fundraising event held by or for Montanans for Rehberg at the Ronald Reagan Republican Center in Washington, DC on May 1, 1996.

RESPONSE:

The NRSC objects to this interrogatory and incorporates General Objections Nos. 1-3, 8, and 9 by reference. In addition, the NRSC objects to the phrase "involved in arrangements" as vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving those objections, the NRSC responds as follows: No NRSC personnel, apart from those who scheduled a room and

arranged chairs and a table for the event, were "involved in arrangements" for the fundraising event.

III. RESPONSES AND OBJECTIONS TO SPECIFIC DOCUMENT REQUESTS

REQUEST NO. 1:

Produce all documents that in any way relate or refer to the production and placement of all advertisements run by the NRSC on radio and television stations in the State of Montana during the months of April, May and June, 1996, including, but not limited to, advertisements with scripts designated "Pay, Taxes" (Baucus) and "1974-Baucus." Documents produced should include, but not be limited to, electronic transfers, bank checks, radio and television order forms, purchase orders, invoices, contracts, telecommunication transmittal sheets, memos, telephone messages, telephone logs, electronic mail messages, notes, correspondence and memoranda.

RESPONSE:

The NRSC objects to this request and incorporates General Objection Nos. 1-9 by reference. Subject to and without waiving those objections, the NRSC will produce documents responsive to this request.

REQUEST NO. 2:

Produce all documents that in any way contain, or refer or relate to, any and all communications and meetings in 1995 and 1996 between any officer, employee or consultant of the NRSC and Dennis R. Rehberg, and/or between any officer, employee or consultant of the NRSC and any officer, employee, consultant, or volunteer of the Montanans for Rehberg Committee, including meetings between Mr. Rehberg and NRSC representatives in Washington, D.C. in July 1995, and on May 1, 1996.

RESPONSE:

The NRSC objects to this request and incorporates General Objection Nos. 1-9 by reference. In addition, insofar as it calls for the production of all documents that relate to "any and all communications" rather than documents that relate to meetings between Dennis R. Rehberg and the NRSC in Washington, the NRSC objects to this request as overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving those objections, the NRSC has made reasonable efforts to locate documents relating to meetings in Washington between Dennis R. Rehberg or the Montanans for Rehberg Committee and the NRSC. The NRSC, however, has found no such documents.

REQUEST NO. 3:

Produce all documents that in any way contain, or refer or relate to, fundraising events held by Montanans for Rehberg in Washington, D.C. on October 14, 1995 and March 21, 1996, the latter at the Ronald Reagan Republican Center, 425 Second Street, N.E.

RESPONSE:

The NRSC objects to this request and incorporates General Objection Nos. 1-9 by reference. Subject to and without waiving those objections, the NRSC will produce documents responsive to this request.

REQUEST NO. 4:

Produce all calendars, appointment books and daily logs kept by or for all persons identified in answer to Interrogatories 1 and 3 in 1995 and 1996.

RESPONSE:

The NRSC objects to this request and incorporates General Objection Nos. 1-9 by reference. In addition, the NRSC objects to this request as overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

Respectfully submitted,



Bobby R. Burchfield
Michael A. Dawson
COVINGTON & BURLING
1201 Pennsylvania Ave., N.W.
Washington, DC 20004
(202) 662-6000

OF COUNSEL:

Craig M. Engle
General Counsel
National Republican
Senatorial Committee

Dated: September 29, 1997

REQUEST #1

0920" 202" 44" 05

100 PM, FEB. 17, 1994

3151

NATIONAL REPUBLICAN
SENATORIAL COMMITTEE
425 SECOND STREET, NE.
WASHINGTON, DC 20002-4967

SIGNET BANK
NOT NEGOTIABLE
ALEXANDRIA, VA

68-021464
560

APRIL 11 19 96

PAY **THIRTY TWO THOUSAND EIGHT HUNDRED AND 00/100*****DOLLARS \$ **32,800.50**

TO
THE
ORDER
OF
MULTI MEDIA SERVICES CORP.
915 KING ST., 2ND FLOOR
ALEXANDRIA, VA 22314

NOT NEGOTIABLE

⑈00003151⑈ ⑆056004089⑆ 651⑈7172927⑈

NATIONAL REPUBLICAN
SENATORIAL COMMITTEE

DELUXE - FORM WV-3 V-2

DATE	DESCRIPTION	AMOUNT
04/11/96	RADIO BUYS	32,800.50

[Handwritten signature]

NATIONAL REPUBLICAN SENATORIAL COMMITTEE

CHECK AUTHORIZATION FORM

Vendor Name & Address:		Division:
<u>Multi Media Services Corp.</u>		<u>Political</u>
<u>915 King St. 2nd Floor</u>		Contact Person: <u>Greg Strimple</u>
<u>Alexandria, VA 22314</u>		Date: <u>4-11-96</u>
<u>(703) 739-2160</u>		Due Date: <u>4-11-96</u>
Telephone No.:	P.O. Number: <u>21789</u>	
Amount: <u>\$ 32,800.50</u>	Account No.:	
Purpose: <u>radio buys</u>		

The amount should be expensed to the 01-7815-000 line(s) on my budget
☐ THIS AMOUNT IS IN BUDGET line(s) on my budget

AUTHORIZED FOR PAYMENT			
<u>[Signature]</u> DIVISION DIRECTOR	<u>OK [Signature]</u> COMPTROLLER	_____ STAFF SECRETARY	_____ EXECUTIVE DIRECTOR

FOR ACCOUNTING PURPOSES ONLY

- ☐ P.O. (FULL PAYMENT)
☐ P.O. (PARTIAL PAYMENT) VENDOR #: _____ ☐ ENTERED MANUAL CHECK

Invoice #	Inv. Date	Inv. Total	G/L Code	FEC Code	Amount	PO #
TOTAL						

☐ MAIL TO VENDOR

NRSC4378 002

MEMORANDUM

SENT VIA FAX

TO: GREG STRIMPLE
FROM: DWIGHT STERLING
DATE: APRIL 11, 1996
RE: MEDIA SCHEDULE COSTS - RADIO IN FOUR STATES

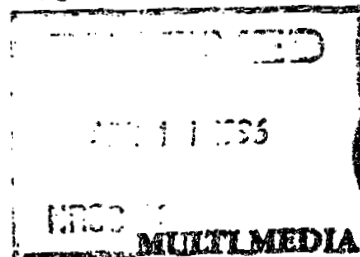
The following is a summary of costs for radio schedules in four states for the National Republican Senatorial Committee. The schedules will air in parts of four states: Iowa, Massachusetts, Minnesota and Montana. The schedules will air for the first part of the four part radio schedule, from Monday, April 15 thru Wednesday, April 24.

The total cost for the eight day schedules is \$32,800.50. Broken down by state, the costs are:

State	Budget	Comments
Iowa	\$ 9,873.00	Des Moines strongest, then Sioux City and Mason City.
Massachusetts	\$ 9,860.00	Worcester strongest, with a lighter schedule in New Bedford-Fall River
Minnesota	\$ 3,412.50	Duluth
Montana	\$ 9,655.00	Strong in Billings and Great Falls, and lighter in Missoula and Helena
TOTAL	\$ 32,800.50	

A breakdown by radio station of the costs in each state is attached. If you have any questions, please call me at (703) 739-2160.

/ds



MULTIMEDIA SERVICES CORPORATION

P.O. #: 21789

Budget Code:

Approved:

Approved:

915 KING STREET, 2ND FLOOR • ALEXANDRIA, VIRGINIA 22314 • (703) 739-2160

NRSC4378 003

NATIONAL REPUBLICAN
SENATORIAL COMMITTEE
425 SECOND STREET, NE
WASHINGTON, DC 20002-4967

3191

SIGNET BANK
ACQUAINTANCE
VA

64-1081464
560

APRIL 23, 19 96

PAY ***THIRTY TWO THOUSAND SIX HUNDRED THIRTY SEVEN AND 50/100 ***DOLLARS \$ 32,637.50 **

MULTI MEDIA SERVICES CORP
915 KING ST. 2ND FLOOR
ALEXANDRIA, VA 22314

TO
THE
ORDER
OF

NOT NEGOTIABLE

⑈00003191⑈ ⑆056004089⑆ 651⑈7172927⑈

NATIONAL REPUBLICAN
SENATORIAL COMMITTEE

DELUXE - FORM WV-3 V-2

DATE	DESCRIPTION	AMOUNT
4/23/96	RADIO REYS	32,637.50

MEMORANDUM**SENT VIA FAX**

TO: GREG STRIMPLE
FROM: DWIGHT STERLING
DATE: APRIL 22, 1996
RE: MEDIA SCHEDULE #2 COSTS - RADIO IN FOUR STATES

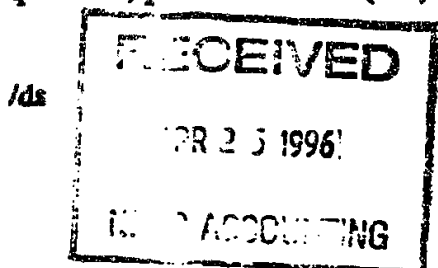
The following is a summary of costs for radio schedules in three states for the National Republican Senatorial Committee. The schedules will air in parts of three states: Iowa, Minnesota and Montana. The schedules will air for the second part of the four part radio schedule, from Thursday, April 25 thru Friday, May 3.

The total cost for the nine day schedules is \$32,637.50. Broken down by state, the costs are:

<u>State</u>	<u>Budget</u>	<u>Comments</u>
Iowa	\$ 9,863.00	Des Moines strongest, then Sioux City and Mason City.
Minnesota	\$ 13,137.50	Duluth and Minneapolis
Montana	\$ 9,637.00	Strong in Billings and Great Falls, and lighter in Missoula and Helena
TOTAL	\$ 32,637.50	

NRSC4378 005

A breakdown by radio station of the costs in each state is attached. If you have any questions, please call me at (703) 739-2160.



P.O. # 21789
Budget Code: 7815 N/C
Approved: [Signature]
Approved: [Signature]

**MULTI MEDIA SERVICES CORPORATION**

915 KING STREET, 2ND FLOOR • ALEXANDRIA, VIRGINIA 22314 • (703) 739-2160

3216

NATIONAL REPUBLICAN
SENATORIAL COMMITTEE
425 SECOND STREET, NE
WASHINGTON, DC 20002-4967

SIGVET BANK
ACH NATIONAL
NEW YORK

58-408 1464
360

MAY 8 19 96

PAY ONE HUNDRED SIXTY THOUSAND AND XX/100 ***** DOLLARS \$160,000.00**

TO
THE
ORDER
OF
MULTI MEDIA
801 NORTH FAIRFAX STREET
ALEXANDRIA VA 22314

NOT NEGOTIABLE

⑈00003216⑈ ⑆056004089⑆ 651⑈7172927⑈

NATIONAL REPUBLICAN
SENATORIAL COMMITTEE

DELUXE - FORM W-3 V-2

DATE	DESCRIPTION	AMOUNT
5/8/96	---MN & MONTANA_ POLITICAL 7805	160,000.00

NATIONAL REPUBLICAN SENATORIAL COMMITTEE

CHECK AUTHORIZATION FORM

Vendor Name & Address:

Multi Media

Division:

Political

801 North Fairfax Street

Contact Person:

Alexandria, VA 22314

Date:

5/8/96

Due Date:

5/8/96

Telephone No.:

P.O. Number:

Amount:

\$160,000-

Account No.:

01-7805

Purpose:

Mr. & Mrs. Kallana

The amount should be expensed to the

01-7805-000

line(s) on my budget

☐ THIS AMOUNT IS IN BUDGET

line(s) on my budget

AUTHORIZED FOR PAYMENT

[Signature]

DIRECTOR

[Signature]

COMPTROLLER

[Signature]

STAFF SECRETARY

[Signature]

EXECUTIVE DIRECTOR

FOR ACCOUNTING PURPOSES ONLY

☐ P.O. (FULL PAYMENT)

☐ P.O. (PARTIAL PAYMENT)

VENDOR #:

☐

ENTERED MANUAL CHECK

Invoice #	Inv. Date	Inv. Total	G/L Code	FEC Code	Amount	PO #
			<u>01-7805</u>		<u>\$160,000-</u>	
TOTAL						

☐ MAIL TO VENDOR

NRSC4378 007

001 174 737 7365

3253

93-408 1464
560

NATIONAL REPUBLICAN
SENATORIAL COMMITTEE
425 SECOND STREET, NE
WASHINGTON, DC 20002-4967

SIGNET BANK
ACH RES 03/06/97
WASH DC, VA

MAY 20 19 96

PAY SIXTY FIVE THOUSAND AND 00/100***** DOLLARS \$ 65,000.00**

TO THE ORDER OF
SHELIAH RAY ASSOCIATES
3505 CAMERON STATION ROAD
ALEXANDRIA, VA 22305

NOT NEGOTIABLE

⑈00003253⑈ ⑆056004089⑆ ⑆51⑈717292⑈

NATIONAL REPUBLICAN
SENATORIAL COMMITTEE

DATE	DESCRIPTION	AMOUNT
05/20/96	DELUXE - FORM WV-3 V-2	
	MEDIA PLACEMENT - 7805	65,000/00

V-2

INVOICE**SENT VIA FAX**

To: National Republican Senatorial Committee
From: Shelliah Roy Associates
Re: Montana Television - Costs
Date: May 17, 1996

The National Republican Senatorial Committee will air television schedules in Montana over two weeks, from Friday, May 24 thru Thursday, June 6. The schedules will air in five television markets: Missoula, Billings, Great Falls, Butte-Bozeman and Helena.

The total cost for the two week schedules is ~~\$64,000.00~~ \$65,000.00. Broken down by market, the costs are:

<u>Market</u>	<u>Week</u>	<u>Cost</u>	<u>GRPs</u>
Missoula	5/24-5/30	\$ 12,500	900 (700-:30's/200-:10's)
	5/31-6/06	\$ 6,500	500 (300-:30's/200-:10's)
Billings	5/24-5/30	\$ 12,000	900 (700-:30's/200-:10's)
	5/31-6/06	\$ 6,000	500 (300-:30's/200-:10's)
Great Falls	5/24-5/30	\$ 8,000	900 (700-:30's/200-:10's)
	5/31-6/06	\$ 5,000	500 (300-:30's/200-:10's)
Butte-Bozeman	5/24-5/30	\$ 8,250	900 (700-:30's/200-:10's)
	5/31-6/06	\$ 4,750	500 (300-:30's/200-:10's)
Helena	5/24-5/30	\$ 1,000	170 (90-:30's/80-:10's)
	5/31-6/06	\$ 1,000	170 (90-:30's/80-:10's)
TOTAL		\$ 65,000.00	

Please call us at (703) 360-5671 with any questions.

/

NATIONAL REPUBLICAN
SENATORIAL COMMITTEE

OUR REF. NO. YOUR REF. NO. INVOICE DATE	INVOICE AMOUNT	AMOUNT PAID	DISCOUNT TAKEN	NET CHECK AMOUNT
00014 MEDIA PRODUCTION	30,000.00	30,000.00	.00	
00015 MEDIA BUY	65,000.00	65,000.00	.00	
00016 MEDIA BUY	88,000.00	88,000.00	.00	
01-MULTI2 E-072643	06/04/96			183,000.00

72643

01-MULTI2

NATIONAL REPUBLICAN
SENATORIAL COMMITTEE
425 SECOND ST., NE.
WASHINGTON, DC 20002-4967

SIGNET BANK
FALLS CHURCH, VA 22041
68-408-580

72643

DATE 4/96 CONFIRMED **AMOUNT 183,000.00

***183,000 DOLLARS AND 00 CENTS

PAY
TO THE
ORDER OF

MULTI MEDIA SERVICES CORP.
915 KING ST., 2ND FLOOR
ALEXANDRIA VA 22314

NOT NEGOTIABLE

000072643 0550010072 65407172727

NATIONAL REPUBLICAN SENATORIAL COMMITTEE

CHECK AUTHORIZATION FORM

Vendor Name & Address:

MULTI MEDIA SERVICES

Division:

POLITICAL

915 KING ST

Contact Person:

2nd. Floor

Date:

JUNE 13 / 96

Alexandria VA 22314

Due Date:

Telephone No.:

P.O. Number:

N/A

Amount:

30,000⁰⁰

Account No.:

Production for

Purpose:

ADVERTISING TO air in two states: MINNESOTA & MONTANA

The amount should be expensed to the

7805

line(s) on my budget



THIS AMOUNT IS IN BUDGET

line(s) on my budget

AUTHORIZED FOR PAYMENT

[Signature]
DIVISION DIRECTOR

[Signature]
COMPTROLLER

[Signature]
STAFF SECRETARY

[Signature]
EXECUTIVE DIRECTOR

FOR ACCOUNTING PURPOSES ONLY



P.O. (FULL PAYMENT)



P.O. (PARTIAL PAYMENT)

VENDOR #



ENTERED MANUAL CHECK

Invoice #	Inv. Date	Inv. Total	G/L Code	FEC Code	Amount	PO #
TOTAL						



MAIL TO VENDOR

NRSC4378 011

INVOICE MEMORANDUM**SENT VIA FAX**

TO: NATIONAL REPUBLICAN SENATORIAL COMMITTEE
FROM: MULTI MEDIA SERVICES CORPORATION
DATE: JUNE 3, 1996
RE: MEDIA COSTS - PRODUCTION

The following production costs were incurred for advertising to air in two states:
Minnesota and Montana.

PRODUCTION COSTS: \$ 30,000.00

If you have any questions, please call us at (703) 739-2160.

/ds



NRSC4378 012

MULTI MEDIA SERVICES CORPORATION

915 KING STREET, 2ND FLOOR • ALEXANDRIA, VIRGINIA 22314 • (703) 739-2160

NATIONAL REPUBLICAN SENATORIAL COMMITTEE

CHECK AUTHORIZATION FORM

Vendor Name & Address:

MULTI MEDIA SERVICES.

Division:

POLITICAL

915 KING ST.

Contact Person:

2nd Floor

Date:

June 3/96

Alexandria VA 22314

Due Date:

Telephone No.:

P.O. Number:

N/A

Amount:

65,000⁰⁰

Account No.:

Purpose:

AIR TELEVISION IN MONTANA OVER TWO WEEKS.

6/7-6/20/96

The amount should be expensed to the

7805

line(s) on my budget

☐ THIS AMOUNT IS IN BUDGET

line(s) on my budget

AUTHORIZED FOR PAYMENT

DIVISION DIRECTOR

COMPTROLLER

STAFF SECRETARY

EXECUTIVE DIRECTOR

FOR ACCOUNTING PURPOSES ONLY

☐ P.O. (FULL PAYMENT)

☐ P.O. (PARTIAL PAYMENT)

VENDOR #:

☐

ENTERED MANUAL CHECK

Invoice #	Inv. Date	Inv. Total	G/L Code	FEC Code	Amount	PO #
TOTAL						

☐ MAIL TO VENDOR

INVOICE**SENT VIA FAX**

To: National Republican Senatorial Committee
 From: Multi Media Services Corporation
 Re: Montana Television - Costs
 Date: June 3, 1996

The National Republican Senatorial Committee will air television schedules in Montana over two weeks, from Friday, June 7 thru Thursday, June 20. The schedules will air in five television markets: Missoula, Billings, Great Falls, Butte-Bozeman and Helena.

The total cost for the two week schedules is \$65,000.00. Broken down by market, the costs are:

<u>Market</u>	<u>Week</u>	<u>Cost</u>	<u>GRPs</u>
Missoula	6/07-6/13	\$ 12,500	900 (700-:30's/200-:10's)
	6/14-6/20	\$ 6,500	500 (300-:30's/200-:10's)
Billings	6/07-6/13	\$ 12,000	900 (700-:30's/200-:10's)
	6/14-6/20	\$ 6,000	500 (300-:30's/200-:10's)
Great Falls	6/07-6/13	\$ 8,000	900 (700-:30's/200-:10's)
	6/14-6/20	\$ 5,000	500 (300-:30's/200-:10's)
Butte-Bozeman	6/07-6/13	\$ 8,250	900 (700-:30's/200-:10's)
	6/14-6/20	\$ 4,750	500 (300-:30's/200-:10's)
Helena	6/07-6/13	\$ 1,000	170 (90-:30's/80-:10's)
	6/14-6/20	\$ 1,000	170 (90-:30's/80-:10's)
TOTAL		\$ 65,000.00	

Please call us at (703) 739-2160 with any questions.

/ds



NRSC4378 014

MULTI MEDIA SERVICES CORPORATION

915 KING STREET, 2ND FLOOR • ALEXANDRIA, VIRGINIA 22314 • (703) 739-2160

3318

**NATIONAL REPUBLICAN
SENATORIAL COMMITTEE**

 425 SECOND STREET, NE.
WASHINGTON, DC 20002-4967

SIGNET BANK
ACH PAY TO THE ORDER OF
FARMERS, VA

 68-1081464
560

JUNE 18 19 96

 PAY ****ONE HUNDRED FORTY NINE THOUSAND FIVE HUNDRED AND 00/100******* DOLLARS \$ ****149,500.00****

 TO
THE
ORDER
OF

 MULTI MEDIA SERVICES CORP.
915 KING ST., 2ND FLOOR
ALEXANDRIA, VA 22314

NOT NEGOTIABLE

@00003318@ 056004089@ 651@7172927@

 NATIONAL REPUBLICAN
SENATORIAL COMMITTEE

DELUXE - FORM WV-3 V-2

DATE	DESCRIPTION	AMOUNT
06/18/96	MEDIA BUYS - 7815	149,500.00

NRSC4378 015

INVOICE**SENT VIA FAX**

To: National Republican Senatorial Committee
From: Multi Media Services Corporation
Re: Montana Television - Costs
Date: June 18, 1996

The National Republican Senatorial Committee will air television schedules in Montana over two weeks, from Friday, June 21 thru Wednesday, July 3. The schedules will air in five television markets: Missoula, Billings, Great Falls, Butte-Bozeman and Helena.

The total cost for the two week schedules is \$65,000.00. Broken down by market, the costs are:

Market	Week	Cost	GRPs
Missoula	6/21-6/27	\$ 12,500	900 (700-:30's/200-:10's)
	6/28-7/03	\$ 6,500	500 (300-:30's/200-:10's)
Billings	6/21-6/27	\$ 12,000	900 (700-:30's/200-:10's)
	6/28-7/03	\$ 6,000	500 (300-:30's/200-:10's)
Great Falls	6/21-6/27	\$ 8,000	900 (700-:30's/200-:10's)
	6/28-7/03	\$ 5,000	500 (300-:30's/200-:10's)
Butte-Bozeman	6/21-6/27	\$ 8,250	900 (700-:30's/200-:10's)
	6/28-7/03	\$ 4,750	500 (300-:30's/200-:10's)
Helena	6/21-6/27	\$ 1,000	170 (90-:30's/80-:10's)
	6/28-7/03	\$ 1,000	170 (90-:30's/80-:10's)
TOTAL		\$ 65,000.00	

Please call us at (703) 739-2160 with any questions.

MAILED
JUN 17 1996

NRSC ACCOUNTING



NRSC4378 016

MULTI MEDIA SERVICES CORPORATION

915 KING STREET, 2ND FLOOR • ALEXANDRIA, VIRGINIA 22314 • (703) 739-2160

National Republican Senatorial Committee

SENATOR ALFONSE M. D'AMATO
CHAIRMAN

JOHN D. HEUBUSCH
EXECUTIVE DIRECTOR

CRAIG M. ENGLE
GENERAL COUNSEL

July 10, 1996

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of

National Republican Senatorial Committee,
J. Stanley Huckaby as Treasurer

MUR 4738

RESPONSE

On behalf of the National Republican Senatorial Committee ("NRSC") and J. Stanley Huckaby as Treasurer, this submission and accompanying sworn statements and exhibits constitute a response to the Complaint in the above-captioned matter. The NRSC requests the Commission find no reason to believe the NRSC violated any provision of the Federal Election Campaign Act, and close the file in this matter.

I. The Complaint

The Complaint in this matter essentially makes two legal charges: the NRSC radio advertising in Montana should be posted to the coordinated limit for that Senate race, and the NRSC should not have used any non-federal money to finance the advertisements. In support of these claims, the Complainant makes the following assertions:

- The ads contain a "clearly identified candidate" and an "electioneering message" as determined by the FEC in Advisory Opinions 1984-15 and 1985-14, and as interpreted in FEC v. Colorado Republican Federal Campaign Committee, 59 F.3d 1015 (10th Cir. 1995). Complaint at pages 2,3.
- The ads cannot be considered "issue ads" because none of the issues contained in them were before the Senate for a vote during the time the ads were aired. Complaint at page 2.
- The ads cannot be considered "issue ads" because of a "Controversial Advertising Campaign Report" filed by KRTV, Great Falls, Montana. Complaint at page 2.

RONALD REAGAN REPUBLICAN CENTER
425 SECOND STREET, N.E. • WASHINGTON, D.C. 20002 • (202) 675-6000

PAID FOR AND AUTHORIZED BY THE NATIONAL REPUBLICAN SENATORIAL COMMITTEE

Page 1 of 6

NRSC4378 017

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OFFICE OF GENERAL
COUNSEL

JUL 10 5 02 PM '96

- On or about the same time, the NRSC prepared and paid for radio advertising for the purpose of electing Dennis Rehberg to the U.S. Senate. Complaint at page 2.¹

All of these legal and factual assertions are incorrect and are addressed below.

II. Response

1. The NRSC advertisements do not contain any "express advocacy" or "electioneering message" as interpreted by the Commission or the Courts.

In Advisory Opinions 1984-15 and 1985-14, the Commission announced that political party communications which bear a clearly identified candidate and an electioneering message must be allocated to the coordinated party expenditure limits at 2 U.S.C. § 441a(d).

In those two Advisory Opinions, the Commission held that commercials which had a clearly identified candidate and contained an electioneering message such as "Vote Republican" or "Vote Democrat" would be subject to the Federal Election Campaign Act's limits on party coordinated expenditures. The Commission also concluded that an advertisement would be subject to the limits without the above tag-lines if the ad had a direct reference to a Congressman's campaign contributions. AO 1985-14, CCH ¶5819 @ p. 11,186.

To give further meaning to the Commission's electioneering message standard, individual Commissioners have articulated an objective test that includes within the definition of "electioneering message" any partisan reference to voters, voting, campaigns, elections, or political contributions. Other Commissioners have articulated a broader "purpose" test for deciding if an expenditure should be allocated. And as the Commission is well aware, there is a solid legal argument for replacing the electioneering message standard with an "express advocacy" test given the statute's language in 2 USC § 441b(a) and § 441a(d).² Federal Election Commission v. Massachusetts Citizens for Life, Inc., 479 U.S. 238 (1986).

Leaving that debate aside, all four of the NRSC's advertisements do not contain any express advocacy or electioneering message regardless of which test, regulation, or Advisory Opinion the Commission may use.³

In each instance the NRSC's ad focuses on the verifiable legislative record of an

¹ The complaint makes several other factual notations regarding the travel or campaign fundraising of Dennis Rehberg. The NRSC has no knowledge or comment about these facts which are not relevant to answering the charge in this complaint regarding our issue advertising.

² The Complaint urges the Commission to use the broad rationale of the United States Court of Appeals for the 10th Circuit in FEC v. Colorado Republican Federal Campaign Committee to decide this case. That "judgment of the Court of Appeals [has been] vacated" by the Supreme Court in Colorado Republican Federal Campaign Committee v. FEC, 95-489 slip op. at 20 (June 26, 1996). Accordingly, the Circuit's decision lacks any precedential support and is of no authoritative weight. Its rationale cannot be used by the Commission to decide this case. Cf. United States v. Munsingwear, Inc., 340 U.S. 36, (1950); Duke Power Co. v. Greenwood County, 299 U.S. 259 (1936).

³ Exact transcripts of the NRSC's legislative ads are attached to this response as Exhibit A.

incumbent federal officeholder. Each reference to a fact or vote about that officeholder is documented by official sources, including the CQ record of votes in the United States Senate. These factual backgrounds (or "grids") are provided to the television or radio stations in advance of airing the ads.⁴ Many stations require these grids to verify the accuracy of a political ad before they will agree to broadcast them. In no case were any of the NRSC's ads in Montana not broadcast due to any inaccuracy.

Finally, and in every case, the NRSC's legislative advocacy spots end with an express call for the listener to take the specific, non-electoral action of contacting his or her officeholder and urging him to take action on a specific, pending legislative proposal. In the ads, the legislative action being encouraged relates to the issues, official votes, or conduct discussed in the text of the ad. Importantly, and contrary to the unresearched allegation in the Complaint, all the legislative proposals being advanced in the NRSC legislative advocacy spots are live, pending issues before the United States Senate. See Exhibit C which denotes the Senate Majority Leader's legislative calendar for the same time period that the NRSC's ads were being aired.

For example, the NRSC television ad "1974--Baucus" restates issues of fact regarding United States debt and population figures for 1974 and 1996 from the Statistical Abstract of the United States. It also accurately recounts documented federal tax and Congressional pay increases during the last two decades. The ad closes with a direct plea for listeners to contact Senator Baucus and tell him to vote for the Majority's plan to balance the budget. According to the Majority Leader's calendar, the Senate was alerted to expect a vote on reconsideration of the Balanced Budget at some point in the month of April, and votes on the Budget Resolution were scheduled throughout May.

The same anatomy holds true for all other NRSC ads as well. Each spot recounts issues of fact, accurately documents Congressional votes, and ends with concrete non-electoral advocacy on pending legislative business. In no case are any words, phrases, or themes in connection with an election used in the spots. In fact, candidates of our party are not informed, or consulted, in fashioning the content or timing of the NRSC's legislative advocacy program. The timing is solely within the discretion of this Committee and is dictated to us by the Congressional calendar.

Not only are the contents of our legislative ads non-electoral, but their purpose is non-electoral as well. Each of the issues discussed in the NRSC's ads are important issues of the day in Montana. Term limits, budget deficits and tax increases are regularly covered or editorialized in the Montana press.⁵ It is important for this Committee to lend its voice and opinion to the debate on these subjects, and encourage the citizens, officeholders, and media in Montana to support our platform.

In sum, no NRSC legislative advocacy advertisement meets, or even comes close to any conceivable definition of "express advocacy" or an "electioneering message" in connection with a general election. Therefore, the NRSC will not report the costs associated with these ads as

⁴ An example of this "grid" documentation is provided as Exhibit B.

⁵ See Exhibit D for press stories and editorials relating to the same issues discussed in our legislative ads.

"coordinated party expenditures."

Further, the NRSC's ads are completely within the Republican National Committee's six factual proffers in Advisory Opinion Request 1995-25, as reprinted on pages one and two of the Commission's Opinion. AO 1995-25, CCH @ p.12,108. As such, the Commission considers the costs incurred with these ads to qualify as "administrative expenses" or "generic voter drive costs" and "[t]hus, such costs should be allocated in accordance with 11 CFR § 106.5." Advisory Opinion 1995-25 at CCH ¶ 6162 p. 12,109. Accordingly, and directly contrary to the allegation raised in the complaint, it is a perfectly legal and Commission-approved practice for the NRSC to use our defined ratio of federal and non-federal funds to pay for the costs incurred in preparing these ads.

2. The Controversial Advertising Campaign Report was not prepared by, or per the instruction of, the NRSC or any of its agents.

The Complaint makes the false claim that in "The Controversial Advertising Campaign Report submitted to KRTV in Great Falls, [the] NRSC admits the purpose of the ads is to advocate the defeat of Senator Max Baucus." Complaint at p. 2. (emphasis added.)

The Controversial Advertising Campaign Report was not submitted to KRTV by the NRSC. Nor was it submitted to KRTV by any other person or pursuant to any instruction or understanding with the NRSC. Instead, the Report was filled out by KRTV President Bill Peterson. (See Exhibit E). Mr. Peterson completed his station's form on his own initiative without consultation with the NRSC or any of its agents. No one at the NRSC saw that form prior to it being placed by KRTV into its public file.

When the General Counsel of the NRSC was informed (which was before the NRSC received notice of this complaint) that KRTV placed an erroneous description of an NRSC ad in the station's public file, immediate action was undertaken to correct the public record. The NRSC's media buyer (Multi Media) immediately contacted the KRTV station manager who acknowledged and corrected his error by substituting his original draft with a revision dated 5/24/96 correctly stating that the television ads are for "the passage of the GOP Balanced Budget Proposal. Asks viewers to call Senator Baucus and support the measure."⁶

Accordingly, the Ad Report at issue has no bearing on the content of the ad or the NRSC's purpose in running it. The Report was not prepared by the NRSC, nor did anyone at the NRSC see it or approve it. Quite the contrary, when the report was shown to the NRSC, immediate steps were taken by the NRSC to correct the station manager's mistaken entry in his public record. Again, the description in the original Ad Report does not change the content of the ad, nor supply an electioneering message in it. Because the Ad Report was prepared outside the control of the NRSC, this Committee cannot be legally bound by a third party's description of our

⁶ See Exhibit E which is the annotated Ad Report showing "Cancel/Revise" and the replacement Ad Report denoting the correct description of the advertisement, a fax cover sheet from KRTV noting the correction and a fax cover from the NRSC's media buyer also noting the correction.

ads, nor can the NRSC's coordinated expenditure authority be controlled by it. All parties involved in this response agree the first Ad Report was mistaken, is now superseded, and that it should have no bearing on the Commission's decision in this matter. See Exhibit F which is the sworn statement of Dwight Sterling, the NRSC's media buyer and consultant for these ads, declaring the recitation contained in Section II 2 of this response to be a true and accurate description of the facts.

3. The NRSC has not prepared or paid for radio ads for the purpose of electing Dennis Rehberg to U.S. Senate.

The complaint also mistakenly alleges the NRSC has prepared and paid for radio ads advocating Dennis Rehberg for U.S. Senate during the same time this Committee was airing its legislative advocacy spots. The charge is completely incorrect.

The NRSC has not and did not plan, prepare, consult on, pay for, or even consider running radio spots for Dennis Rehberg during the time in question. The ads attached to the complaint were completely within the control of the Rehberg committee and were not approved by, or even shown to, the NRSC prior to being aired by the Rehberg Committee. In fact, there was no coordination between the NRSC and the Rehberg campaign about the Rehberg campaign's decision to broadcast radio spots: all of their advertising occurred before the Montana primary on June 4, 1996, and the NRSC adhered to its long-standing policy of not becoming involved in contested Republican primaries.

Instead, the Rehberg campaign aired their radio spots for their own reasons, namely that their primary opponent had just contributed \$100,000 to his campaign committee and launched an aggressive media campaign. The Rehberg Committee's decision to launch their own media effort was only in direct response to their primary opponent's campaign; their ads were not done in coordination with the NRSC's legislative advocacy since the Rehberg Committee had no prior knowledge of, and were asked not to consent to, the NRSC's own legislative advocacy program.

Further, the Complaint's Exhibit F which purports to show the NRSC prepared and paid for Rehberg's radio advertisements is equally false. The NRSC did not authorize the use of its name in any advertisements in Montana other than the legislative advocacy scripts noted in part II 1 of this response, nor did the NRSC pay for the airing of any ads which may have mistakenly borne its name.

Just as with the incorrect Controversial Ad Report noted above, the NRSC discovered and corrected a third party's disclaimer error prior to being notified of this Complaint. On or around May 15, 1996, the NRSC General Counsel was made aware that certain radio spots in Montana incorrectly bore the NRSC's disclaimer. Stations were immediately notified that ads with the incorrect disclaimer should be immediately taken off the air.

The disclaimer error occurred because *Fred Davis, a member of the production company hired by the Rehberg campaign to produce its ads, made on his own initiative two versions of the same spot: one with a Rehberg disclaimer and one with an NRSC disclaimer. (See Exhibit G).*

Apparently, the preparation of duplicate ads is a common practice in the political industry. This allows media buyers to more quickly put different ads into play in case of an unanticipated change in traffic, financing or sponsorship of the ads. The problem was the NRSC-disclaimer advertisement was incorrectly put into play by radio stations even though no one at the NRSC authorized the production, use, or airing of any radio advertising with (or for that matter, without) our disclaimer. Similarly, no one within the Rehberg committee, including its media consultant or its media placement service authorized the airing of any advertisements using the NRSC disclaimer. The error was made solely by radio stations, themselves.

As proof of the above, attached to this submission as Exhibit G is an exchange of correspondence, faxes, and radio orders making clear that all Rehberg advertising should only bear the Rehberg disclaimer. Also attached as Exhibit H is the sworn statement of Mike Pieper, Campaign Manager for the Rehberg Committee, declaring the recitation contained in Section II 3 of this response to be a true and accurate description of the facts.

III. Conclusion

Based on the foregoing the NRSC respectfully requests the Federal Election Commission find no reason to believe this Committee violated any provision of federal election law regarding the issues put forth in the Complaint. All advertisements aired by this Committee meet the strict requirements of "legislative advocacy" and do not contain any "express advocacy" or "electioneering message." The ads were properly financed and were issue-oriented. They were not for the purpose of electing or defeating any candidate and were not executed in consultation with the Rehberg Committee.

Further, the erroneous Controversial Ad Report and incorrect disclaimer on the Rehberg radio ads bear no relation to the legal issues of this case. In fact, they are irrelevant errors by third parties outside the control of this Committee.

Respectfully submitted,



Craig M. Engle
General Counsel

Exhibits as stated